

1 BILL LOCKYER, Attorney General
of the State of California
2 **BEN JOHNSON, State Bar No. 84406**
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2095
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 KATHY E. GALLEGOS
12 1394 Fair Oaks Ct
Merced, CA 95340-2341

13 Technician Registration No. TCH 31084

14 Respondent.

Case No. 2832

OAH No.

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

15
16 FINDINGS OF FACT

17 1. On or about November 28, 2005, Complainant Patricia F. Harris, in her official
18 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
19 filed Accusation No. 2832 against Kathy E. Gallegos (Respondent) before the BOARD OF
20 PHARMACY.

21 2. On or about October 13, 1999, the BOARD OF PHARMACY (BP) issued
22 Technician Registration No. TCH 31084 to Respondent. The Technician Registration was in
23 full force and effect at all times relevant to the charges brought herein and will expire on July 31,
24 2007, unless renewed.

25 3. On or about December 8, 2005, Janice Williams, an employee of the Department
26 of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2832, Statement
27 to Respondent, Notice of Defense, Request for Discovery, and Government Code sections
28 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the BP, which was and is

1 1394 Fair Oaks Ct, Merced, CA 95340-2341. A copy of the Accusation, the related
2 documents, and Declaration of Service are attached as exhibit A, and are incorporated herein by
3 reference.

4 4. Service of the Accusation was effective as a matter of law pursuant to the
5 provisions of Government Code section 11505, subdivision (c).

6 5. Government Code section 11506 states, in pertinent part:

7 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
8 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
9 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
10 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

11 6. Respondent failed to file a Notice of Defense within 15 days after service upon
12 her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation
13 No. 2832.

14 7. California Government Code section 11520 states, in pertinent part:

15 "(a) If the respondent either fails to file a notice of defense or to appear at the
16 hearing, the agency may take action based upon the respondent's express admissions or
17 upon other evidence and affidavits may be used as evidence without any notice to
18 respondent."

19 8. Pursuant to its authority under Government Code section 11520, the BP finds
20 Respondent is in default. The BP will take action without further hearing and, based on
21 Respondent's express admissions by way of default and the evidence before it, contained in
22 exhibits A, B and C, finds that the allegations in Accusation No. 2832 are true.

23 9. The total costs for investigation and enforcement are \$4,069.50 as of January 17,
24 2006.

25 DETERMINATION OF ISSUES

26 1. Based on the foregoing findings of fact, Respondent Kathy E. Gallegos has
27 subjected her Technician Registration No. TCH 31084 to discipline.

28 2. A copy of the Accusation and the related documents and Declaration of Service

1 are attached.

2 3. The agency has jurisdiction to adjudicate this case by default.

3 4. The BOARD OF PHARMACY is authorized to revoke Respondent's Technician
4 Registration based upon the following violations alleged in the Accusation:

5 a. That on November 12, 2004, in the Merced County Superior Court,
6 respondent pled guilty to violating section 11173(a) (Obtaining Oxycodone, a controlled
7 substance, by fraud, deceit, or misrepresentation.) of the Health and Safety Code; and section 488
8 (Petty theft of 114 Oxycodone pills.) of the Penal Code.

9 ORDER

10 IT IS SO ORDERED that Technician Registration No. TCH 31084, heretofore issued to
11 Respondent Kathy E. Gallegos, is revoked.

12 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
13 written motion requesting that the Decision be vacated and stating the grounds relied on within
14 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
15 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

16 This Decision shall become effective on April 5, 2006.

17
18
19 It is so ORDERED March 6, 2006

20 BOARD OF PHARMACY
21 DEPARTMENT OF CONSUMER AFFAIRS
22 STATE OF CALIFORNIA

23
24 By


25 STANLEY W. GOLDENBERG
Board President

26 Attachments:

27 Exhibit A: Accusation No.2832, Related Documents, and Declaration of Service
28 Exhibit B: Evidence Packet
Exhibit C: Declaration of Cost

BILL LOCKYER, Attorney General
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Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

KATHY E. GALLEGOS
1394 Fair Oaks Ct
Merced, CA 95340-2341

Technician Registration No. TCH 31084

Respondent.

Case No. 2832

OAH No.

DECLARATION OF BEN JOHNSON

I, Ben Johnson, declare:

1. I am a Deputy Attorney General employed by the California Department of Justice, Office of the Attorney General (Office). I am assigned to the Licensing Section in the Civil Division of the Office. On January 25, 2005, I was designated the representative to prosecute the above entitled matter.

2. I have carefully read the Criminal Complaint, the Case Report and the Merced County Superior Court Minute Orders for case number MM199810, attached hereto as Exhibit B and incorporated herein by reference. They accurately summarize my personal knowledge of the events and statements contained therein.

I declare under penalty of perjury that the foregoing is true and correct and if called to testify thereto I could competently do so.

Executed on January 18, 2006, in the City of Los Angeles, California.

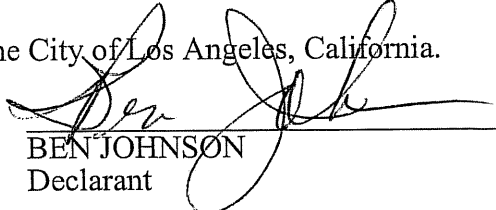

BEN JOHNSON
Declarant

Exhibit A
Accusation No. 2832,
Related Documents and Declaration of Service

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

Case Name: **In the Matter of the Accusation Against:
KATHY E. GALLEGOS**

Board of Pharmacy Case No: 2832

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On December 5, 2005, I served the attached

**Accusation, Statement to Respondent, Notice of Defense (2 Copies)
Request for Discovery, Discovery Statutes**

by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the

**Accusation, Statement to Respondent, Notice of Defense (2 Copies)
Request for Discovery, Discovery Statutes**

was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at Los Angeles addressed as follows

Kathy E. Gallegos
Pharmacy Technician
1394 Fair Oaks Ct.
Merced, CA 95340-2341

**Certified Mail Number
7001 0360 0003 2705 6589**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 5, 2005, at Los Angeles, California.

Janice E. Williams
Declarant

Janice Williams
Signature

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only. No Insurance Coverage Provided)

6589 2705 0003 0360 1001

OFFICIAL USE

Postage \$

Certified

Return Receipt
 (Endorsement Req)

Restricted Delivery
 (Endorsement Req)

Total Postage &

Kathy E. Gallegos
Pharmacy Technician
1394 Fair Oaks Ct.
Merced, CA 95340-2341

Sent To

Street, Apt. No.,
 or PO Box No.

City, State, ZIP+ 4

PS Form 3800, January 2001

(See Reverse for Instructions)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kathy E. Gallegos
Pharmacy Technician
1394 Fair Oaks Ct.
Merced, CA 95340-2341

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Agent
☐ Addressee

☐ Yes
☐ No

3. Service Type

☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

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1 BILL LOCKYER, Attorney General
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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 KATHY E. GALLEGOS
13 1394 Fair Oaks Ct.
Merced, CA 95340-2341

14 Pharmacy Technician License No. TCH 31084

15 Respondent.

Case No. 2832

OAH No.

A C C U S A T I O N

16
17 Complainant alleges:

18 PARTIES

19 1. Patricia F. Harris (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
21 Affairs.

22 2. On or about October 13, 1999, the Board issued Pharmacy Technician License
23 No. TCH 31084 to Kathy E. Gallegos (Respondent). The license was in full force and effect at
24 all times relevant to the charges brought herein and the license will expire on July 31, 2007,
25 unless renewed.

26 ///

27 ///

JURISDICTION

3. This Accusation is brought before the Board under the authority of the laws of the State of California, including, but not limited to, the following references to the Business and Professions Code (BP Code). All section references are to the Business and Professions Code (BP Code) unless otherwise indicated.

BP Code Section 4301 states, in pertinent part, "The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued my mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

....

(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record. . .of a violation of the statutes of this

1 state regulating controlled substances or dangerous drugs shall be conclusive evidence of
2 unprofessional conduct. ...

3

4 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
5 violation of or conspiring to violate any provision or term of this chapter or of the applicable
6 federal and state laws and regulations governing pharmacy, including regulations established by
7 the board.

8

9 4. BP Code Section 118(b) states, "The suspension, expiration, or forfeiture by
10 operation of law of a license issued by a board in the department, or its suspension, forfeiture, or
11 cancellation by order of the board or by order of a court of law, or its surrender without the
12 written consent of the board, shall not, during any period in which it may be renewed, restored,
13 reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary
14 proceeding against the licensee upon any ground provided by law or to enter an order suspending
15 or revoking the license or otherwise taking disciplinary action against the licensee on any such
16 ground."

17 5. Pursuant to section 490 of the BP Code the Board may suspend or revoke a
18 license on the ground that the licensee has been convicted of a crime, provided the crime is
19 substantially related to the qualifications, functions, or duties of the business or profession for
20 which the license was issued.

21 6. Section 4022 of the BP Code defines "Dangerous Drugs" as any drug that is
22 unsafe for self-medication and which by federal or state law can be lawfully dispensed only by
23 prescription.

24 7. Section 4059(a) of the BP Code states, in pertinent part, that no person shall
25 furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist,
26 optometrist, or veterinarian.

27 8. Section 4060 of the BP Code states, in pertinent part, "No person shall possess
28 any controlled substance, except that furnished to a person upon the prescription of a physician,

1 dentist, podiatrist, or veterinarian....”

2 9. Section 11173(a) of the Health and Safety Code states:

3 “(a) No person shall obtain or attempt to obtain controlled substances, or procure
4 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
5 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”

6 10. Health and Safety Code section 11350(a) provides that, except as otherwise
7 provided in this division, every person who possesses any controlled substance which is a
8 narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or
9 veterinarian licensed to practice in this state, shall be punished by imprisonment in the state
10 prison.

11 11. Section 11170 of the Health and Safety Code states:

12 “No person shall prescribe, administer, or furnish a controlled substance for
13 himself.”

14 12. Pursuant to California Code of Regulations, title 16, section 1770, a crime or act
15 shall be considered substantially related to the qualifications, functions or duties of a licensee or
16 registrant if to a substantial degree it evidences present or potential unfitness of a licensee or
17 registrant to perform the functions authorized by his license or registration in a manner consistent
18 with the public health, safety, or welfare.

19 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request
20 the administrative law judge to direct a licensee found to have committed a violation or
21 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
22 and enforcement of the case.

23 CONTROLLED SUBSTANCES

24 14. Oxycodone, pursuant to BP Code section 4022, is a dangerous drug and under
25 Health and Safety Code section 11055(b)(1)(N) Oxycodone is a Schedule II controlled substance.

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Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2832

KATHY E. GALLEGOS

STATEMENT TO RESPONDENT

Respondent.

[Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

Enclosed is a copy of the Accusation that has been filed with the Board of Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the Board, represented by Deputy Attorney General Ben E. Johnson, within fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in

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1 section 11506 of the Government Code, to

2 **Ben E. Johnson**
3 **Deputy Attorney General**
4 **Ronald Reagan Building**
5 **300 South Spring Street, Suite 1702**
6 **Los Angeles, CA 90013**

7 You may, but need not, be represented by counsel at any or all stages of these
8 proceedings.

9 The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a
10 specific denial of all parts of the Accusation, but you will not be permitted to raise any objection
11 to the form of the Accusation unless you file a further Notice of Defense as provided in section
12 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

13 If you file any Notice of Defense within the time permitted, a hearing will be held on the
14 charges made in the Accusation.

15 The hearing may be postponed for good cause. If you have good cause, you are obliged
16 to notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles,
17 California 90013, within ten (10) working days after you discover the good cause. Failure to
18 notify the Office of Administrative Hearings within ten (10) days will deprive you of a
19 postponement.

20 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

21 If you desire the names and addresses of witnesses or an opportunity to inspect and copy
22 the items mentioned in section 11507.6 of the Government Code in the possession, custody or
23 control of the Board you may send a Request for Discovery to the above designated Deputy
24 Attorney General.

25 **NOTICE REGARDING STIPULATED SETTLEMENTS**

26 It may be possible to avoid the time, expense and uncertainties involved in an
27 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
28 settlement is a binding written agreement between you and the government regarding the matters
charged and the discipline to be imposed. Such a stipulation would have to be approved by the
Board of Pharmacy but, once approved, it would be incorporated into a final order.

1 Any stipulation must be consistent with the Board's established disciplinary guidelines;
2 however, all matters in mitigation or aggravation will be considered. A copy of the Board's
3 Disciplinary Guidelines will be provided to you on your written request to the state agency
4 bringing this action.

5 If you are interested in pursuing this alternative to a formal administrative hearing, or if
6 you have any questions, you or your attorney should contact Deputy Attorney General Ben E.
7 Johnson at the earliest opportunity.

8 *****

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10 Gallegos Acc Packet.wpd
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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

KATHY E. GALLEGOS

Respondent.

Case No. 2832

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

KATHY E. GALLEGOS

Respondent.

Case No. 2832

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

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I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2832

11 KATHY E. GALLEGOS

REQUEST FOR DISCOVERY

12 Respondent.

[Gov. Code § 11507.6]

13
14 TO RESPONDENT:

15 Under section 11507.6 of the Government Code of the State of California, parties
16 to an administrative hearing, including the Complainant, are entitled to certain information
17 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
18 Government Code concerning such rights is included among the papers served.

19 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE
20 HEREBY REQUESTED TO:

- 21 1. Provide the names and addresses of witnesses to the extent known to the
22 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
- 23 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
24 the following in the possession or custody or under control of the Respondent:
 - 25 a. A statement of a person, other than the Respondent, named in the initial
26 administrative pleading, or in any additional pleading, when it is claimed that the act or
27 omission of the Respondent as to this person is the basis for the administrative
28 proceeding;

1 b. A statement pertaining to the subject matter of the proceeding made by any
2 party to another party or persons;

3 c. Statements of witnesses then proposed to be called by the Respondent and
4 of other persons having personal knowledge of the acts, omissions or events which are the
5 basis for the proceeding, not included in (a) or (b) above;

6 d. All writings, including but not limited to reports of mental, physical and
7 blood examinations and things which the Respondent now proposes to offer in evidence;

8 e. Any other writing or thing which is relevant and which would be
9 admissible in evidence, including but not limited to, any patient or hospital records
10 pertaining to the persons named in the pleading;

11 f. Investigative reports made by or on behalf of the Respondent pertaining to
12 the subject matter of the proceeding, to the extent that these reports (1) contain the names
13 and addresses of witnesses or of persons having personal knowledge of the acts,
14 omissions or events which are the basis for the proceeding, or (2) reflect matters
15 perceived by the investigator in the course of his or her investigation, or (3) contain or
16 include by attachment any statement or writing described in (a) to (e), inclusive, or
17 summary thereof.

18
19 For the purpose of this Request for Discovery, "statements" include written statements by
20 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
21 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
22 summaries of these oral statements.

23 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
24 should be deemed to authorize the inspection or copying of any writing or thing which is
25 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
26 product.

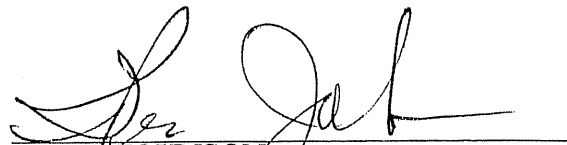
27 Your response to this Request for Discovery should be directed to the undersigned
28 attorney for the Complainant at the address on the first page of this Request for Discovery **within**

1 **30 days after service** of the Accusation.

2 Failure without substantial justification to comply with this Request for Discovery may
3 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of
4 the Government Code.

5 DATED: Sept. 19, 2005

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7 BILL LOCKYER, Attorney General
of the State of California

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11 BEN E. JOHNSON
Deputy Attorney General

12 Attorneys for Complainant

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COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

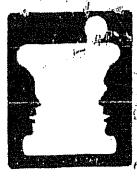
(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

Exhibit B

Certified Copies of Police Report & Court Minute Orders

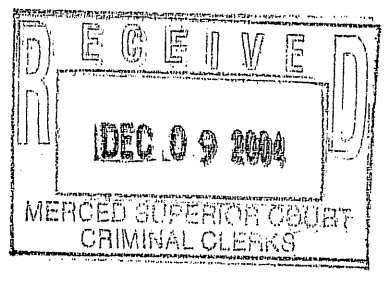
2832



California State Board of Pharmacy
400 R Street, Suite 4070, Sacramento, CA 95814
Phone (916) 445-5014
Fax (916) 327-6308
www.pharmacy.ca.gov

STATE AND CONSUMER AFFAIRS AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
ARNOLD SCHWARZENEGGER, GOVERNOR

December 6, 2004



Merced County Superior Court
Attn: Criminal Records
670 West 22nd Street
Merced CA 95340

RE: KATHY ELIZABETH GALLEGOS
DOB: 07/13/1962
CASE#: MM199810

Reference # CI 27964

Dear Staff:

The above referenced subject is licensed with the California State Board of Pharmacy. The Board has received information that the above named subject was convicted in the above-related case.

We are requesting, pursuant to Business and Professions Code sections 475 and 490, that you provide us with certified copies of all pertinent court documents relating to this conviction such as the arrest report, complaint, minute/probation order, criminal docket, indictment and sentencing order.

Please include whether the case has been completed and if there are any outstanding bench warrants on subject. In addition, please complete a records check for any other case(s) subject may have in your county.

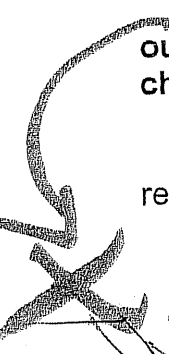
Thank you for your cooperation. If you have any questions regarding this request, please call me at (916) 445-5014 ext. 4055.

Sincerely,

PATRICIA F. HARRIS
Executive Officer

By

Susan Cappello
Susan Cappello
Enforcement Analyst



This is the only case subject was in this County. Subject due back in Court on 1-7-05 @ 9:30 AM in Dept. 5 to show proof of completed community service time.

GORDON SPENCER
DISTRICT ATTORNEY
COUNTY OF MERCED
2150 M STREET
MERCED CA 95340
TELEPHONE (209) 385-7382

10.28.04
8:30

FILED
MERCED COUNTY

2004 SEP 21 AM 5:24

CLERK OF THE SUPERIOR COURT

[Signature]

SUPERIOR COURT, COUNTY OF MERCED
STATE OF CALIFORNIA

DEPUTY

THE PEOPLE OF THE STATE OF CALIFORNIA)

PLAINTIFF,)

VS.)

KATHY ELIZABETH GALLEGOS 07/13/1962)
DEFENDANT(S))

NO. MM199810

CRIMINAL COMPLAINT

City Mf

THE DISTRICT ATTORNEY OF MERCED COUNTY, CALIFORNIA HEREBY
ACCUSES THE ABOVE NAMED DEFENDANT(S) OF THE FOLLOWING CRIMINAL
OFFENSES OCCURRING IN THE COUNTY OF MERCED, STATE OF CALIFORNIA.

COUNT 1

ON OR ABOUT MARCH 1, 2004, THROUGH JUNE 27, 2004, DEFENDANT(S)
KATHY ELIZABETH GALLEGOS
DID COMMIT A MISDEMEANOR, NAMELY, A
VIOLATION OF SECTION 11173(A) OF THE CALIFORNIA HEALTH AND SAFETY CODE,
OBTAINING CONTROLLED SUBSTANCE BY FRAUD, IN THAT
SAID DEFENDANT DID WILLFULLY AND UNLAWFULLY OBTAIN
A CONTROLLED SUBSTANCE, TO WIT: OXYCODONE
AND DID PROCURE AND ATTEMPT TO PROCURE THE ADMINISTRATION OF AND
PRESCRIPTION FOR SAID CONTROLLED SUBSTANCE BY FRAUD, DECEIT, AND
MISREPRESENTATION.

COUNT 2

ON OR ABOUT MARCH 1, 2004, THROUGH JUNE 27, 2004, DEFENDANT(S)
KATHY ELIZABETH GALLEGOS
DID COMMIT A MISDEMEANOR, NAMELY, A
VIOLATION OF SECTION 503 OF THE CALIFORNIA PENAL CODE, EMBEZZLEMENT, IN

THAT HE/SHE WILLFULLY AND FRAUDULENTLY APPROPRIATED PROPERTY OF ANOTHER,
TO WIT: MERCY DOMINICAN HOSPITAL
WHICH HE/SHE HAD IN HIS/HER POSSESSION AND UNDER HIS/HER CONTROL BY VIRTUE
OF HIS/HER TRUST AND DID WILLFULLY AND UNLAWFULLY SECRETE SAID PROPERTY
WITH A FRAUDULENT INTENT TO APPROPRIATE IT TO SUCH A USE AND PURPOSE
CONTRARY TO PENAL CODE SECTION 503.

AN INVESTIGATION HAS BEEN CONDUCTED TO DETERMINE IF SAID
DEFENDANT(S) DID COMMIT THE STATED CRIME. REPORTS OF THE
INVESTIGATION, ATTACHED HERETO AND INCORPORATED BY REFERENCE,
SHOW PROBABLE CAUSE THAT DEFENDANT(S) DID COMMIT THE CRIME.

ON THIS SEPTEMBER 20, 2004 , IN THE COUNTY OF MERCED,
I CERTIFY AND DECLARE UNDER PENALTY OF PERJURY THAT
THE FOREGOING IS TRUE AND CORRECT.

GORDON SPENCER

BY Bruce Gilbert
DEPUTY DISTRICT ATTORNEY

THE DISTRICT ATTORNEY REQUESTS THE COURT SET THIS MATTER
FOR ARRAIGNMENT AND A NOTIFICATION LETTER BE MAILED TO THE
DEFENDANT. IF THE DEFENDANT FAILS TO APPEAR OR IF THE
NOTIFICATION LETTER IS RETURNED BY THE POST OFFICE, IT IS
REQUESTED THAT A WARRANT OF ARREST BE ISSUED PURSUANT TO
PENAL CODE SECTION 813 OR 1427.

(FORM DAC #001)

PURSUANT TO PENAL CODE SECTION 1054.5(B), THE PEOPLE ARE HEREBY
INFORMALLY REQUESTING THAT DEFENDANT AND HIS OR HER ATTORNEY
PROVIDE TO THE PEOPLE THE DISCOVERY REQUIRED BY PENAL CODE
1054.3. THIS IS A CONTINUING REQUEST PURSUANT TO THE PROVISIONS
OF PENAL CODE SECTION 1054.7.

NOTICE TO ATTORNEY

THE MATERIALS ACCOMPANYING THIS NOTICE MAY INCLUDE INFORMATION ABOUT
WITNESSES WHICH IS DISCLOSED TO YOU PURSUANT TO PENAL CODE SECTION
1054.2, WHICH READS AS FOLLOWS:

"NO ATTORNEY MAY DISCLOSE OR PERMIT TO BE DISCLOSED TO A DEFENDANT, MEMBERS OF THE DEFENDANT'S FAMILY OR ANYONE ELSE, THE ADDRESS OR TELEPHONE NUMBER OF A VICTIM OR WITNESS WHOSE NAME IS DISCLOSED TO THE ATTORNEY PURSUANT TO SUBDIVISION (A) SECTION 1054.1 UNLESS SPECIFICALLY PERMITTED TO DO SO BY THE COURT AFTER A HEARING AND SHOWING OF GOOD CAUSE."

WILLFUL VIOLATION OF THIS SUBDIVISION BY AN ATTORNEY IS A MISDEMEANOR. FOR PURPOSES OF THIS SECTION, ALL NAMES INCLUDED IN THE ATTACHED REPORTS ARE DEEMED TO BE WITNESSES PURSUANT TO SUBDIVISION (A) OF SECTION 1054.1.

B.A. =

Case Description: Case Number: 2004-00033434
Theft Including Petty) Grand Theft

MERCED

CA 95340

Race : White Sex: Male D.O.B: 12/04/69 Age: 34
Hgt : 5'10" Wgt: 240 Hair: Brown Eyes . . : Brown
Dr Lic #: St: Soc Sec #: 000-00-0000

Business:

Phone: 209-384-6744

RECEIVED FOR
FEDERAL INFORMATION
LAW ENFORCEMENT
CHANNEL ONLY
2004

Property:

Item Number . : 1 Subject #: Subject Type:
Property Code : Evidence Property Type : General
Date Received : 07/21/04 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : Bin : Disp/Date: Held Evid

Year/Desc . : 0000 CASSETTE TAPE/SUSP
Registratn# : State : Expires :

Property: MERCY HOS-DOMINICAN,,,

Item Number . : 1 Subject #: 1 Subject Type: Victim
Property Code : Stolen Property Type : General
Date Received : 07/19/04 Initial Value : 106.00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : Bin : Disp/Date:

Year/Desc . : 0000 114 OXYCONTIN PILLS
Registratn# : State : Expires :

Original Narrative, Case #2004-33434

SYNOPSIS:

Brian Elmore, an employee at the Mercy Hospital pharmacy,
reported a theft of narcotics from their pharmacy.

SCENE DESCRIPTION:

N/A.

NARRATIVE:

I was dispatched to 2740 M Street, the Mercy Dominican Hospi-
tal, for a report of a theft. When I arrived I met with Brian
Elmore in the pharmacy.

Elmore explained that they had discovered that one particular
drug had been stolen from their pharmacy. On 6-27-04 they did
their yearly inventory and found that 114 pills of Oxycodone had
been stolen. He described Oxycodone as a pain killer narcotic
that is usually reserved for cancer patients.

Theft Including Petty 1 Grand Theft

Elmore started to look into the inventory on the computer to research who has been taking these pills. He explained that each employee has a code that is like their electronic signature. This particular narcotic was kept in the narcotic vault. In order to gain access to it an employee would have to put in their electronic code.

Elmore showed me his printout of the access codes to that vault. For this particular drug it showed on his printout the initials of "KEG" for Kathy Elizabeth Gallegos. He showed me the dates which I underlined on this printout where she had gained access for this drug and had taken pills. She would write down the reason for taking these pills as waste recall function. Elmore explained that they will take pills that are past expiration date and take them out of the bottles for destruction. There were numerous dates where Gallegos went in and it indicates the quantity of numerous pills that she took for the same reason of expiration waste recall function. When Elmore saw this he became suspicious because Gallegos is not an employee who would be disposing of this type of narcotic.

Elmore explained that due to it being such a heavy pain killer narcotic, when these medications expire they have a company from out of town come in to take possession of these narcotics. The company removes them for the expiration and disposes of them. Because of the type of narcotic, when the company comes they give them a printout of how many pills they are taking for destruction.

On 7-9-04 Elmore confronted Gallegos about her taking these pills for disposal. At that time she admitted to him that she had taken them and consumed them. She told him she was not going to lie and that she took them. She was put on administrative leave and on 7-12-04 was terminated. To Elmore's knowledge she has entered rehab at this time.

I will attempt to call Gallegos to get a taped statement in regards to the theft of this narcotic.

As I was reviewing my report I noticed that the total amount that Elmore had given me was only about \$106.00 for the 114 pills taken. I called him to confirm that this type of narcotic would be that cheap. He said the bottle they received from the company for the hospital was about that much. He said they get the product at a cheaper rate but he said he has heard that this Oxycodone does go for anywhere from \$10.00 to \$30.00 a pill on street value.

ATTN: INVESTIGATIONS

Officer Adrian #119 / 8-5-04 / bb

Supp Narrative, Off. Adrian, 7-20-04

RECEIVED PD
FEDERAL BUREAU OF INVESTIGATION
FEDERAL LAW ENFORCEMENT
COMMUNICATIONS SECTION
FBI

Case Description:

Case Number: 2004-00033434

Theft Including Petty

Grand Theft

SUPPLEMENTAL NARRATIVE

PAGE 1

2004-33434

CRIME: 11173 H&S

VICTIM: MERCY HOSPITAL

NARRATIVE:

On 7-20-04 at approximately 7:40 a.m., I responded to 1394 Fair Oaks Court to speak with Kathy Gallegos. When I arrived I knocked on the door and she answered. I told her I needed to speak with her and she invited me into her residence. I sat down and told her I needed to get her statement in regards to the missing narcotics from Mercy. I turned on my recorder and told her I needed to record her statement.

I confirmed with her that the narcotic taken was Oxycodone. During the interview Gallegos admitted to taking the pills. She could not remember exactly how many she took. She said they were taken for her own consumption. I asked her if she knew the system of the disposing of the narcotics, that the hospital has somebody respond and retrieve them, and she said yes she did know. She said by that time she did not remember or just did not care because she was on the pain medication.

Gallegos did say that yesterday she enrolled in a drug rehab program here in Merced and she has another appointment today. For her complete statement refer to the logged tape at Merced PD Central Station. This report will be forwarded to the DA's office for review.

ATTN: DA'S OFFICE

Officer Adrian #119 / 8-6-04 / bb

RECEIVED PD
TIAL INFO
LAW ENFOR
ANEL ONLY

MINUTE ORDER

MERCED COUNTY SUPERIOR COURT

CITING OFF/AGENCY ADRIAN / MC ☒ MC ☐ LB ☐ CASE NO. MM199810
 DATE OF CITE 03/01/04 ☐ DP ☐ GU ☐ DISTRIBUTION CITY MARIJUANA
 REPORT NUMBER 040033434 CHARGES 11173(A)HS: 303PC
 DATE 11/12/04

PEOPLE VS. GALLEGOS, KATHY ELIZABETH 07/13/62 09:30

DEFENDANTS STATUS

F.T.A.: ☐ REVOKE O/R ☒ O/R ☐ BOND/CASH \$ ☐ IN CUSTODY ☐ CITED
☐ FORFEIT BAIL ☐ CLOSE CASE ☐ ISSUE WARRANT \$
 JUDGE Smith D/A Kahn OTHER Ulane
 DEF/ATTY Smith INTERPRETER Ulane CT/CLERK Ulane
 DEFENDANT APPEARS TODAY FOR: PRE TRIAL

☐ STIPULATED TO COMMISSIONER/TEMPORARY JUDGE. ☐ Defendant stipulates to non-certified interpreter. Court finds a certified interpreter is not available, finds good cause to appoint a non-certified interpreter and finds interpreter to be qualified.

PROCEEDINGS

☐ App't PD/CPD ☐ Guilty ☐ Def. in violation of Probation ☒ No Contest to CH I, CH II Not Guilty to
☒ Plead ☐ Cont/Def to obtain att'y/CDL
☐ Arraignment and advisement of constitutional rights waived.

DISMISSED: Following charges dismissed on motion of CH I, CH IIAMENDED: To charge: ☐ MISDEMEANOR CH I, CH IIMOTION OF DDA

Defendant ordered to report at once to: (addresses on back of form)

☐ Court Services, Probation Dept. ☐ Pre-Plea/Restitution Report ☐ Jail ☐ Fingerprinting ☐ PreBook Today PreBook Today Rest fine-Per 1202.46

TRIAL: VERDICT OF: ☐ Guilty of ☐ Not Guilty of ☐ Mistrial Rest fine-Per 1202.45

SENTENCE: ☐ Time waived for sentencing.ATTORNEY FEES \$ 24 By Pay to Rev. & Reimb.

☐ Conditional Sentence/Probation granted: 24 months. (See order below for terms.) ☐ TXD

FINE: Pay fine of \$ 100 including penalty assessment plus \$ Restitution Fund Fine ☐ Pay to Central Accounting ☐ Pay to Rev. & Reimb. RMP

☐ Credit against fine \$ for time served. \$ Suspended

☐ Convert fine/Restitution Fund Fine to days in jail/ hours Community Service.

☐ Complete 100 hours community service through Court Probation. ☐ Pay Traffic School/Court Fee \$ By
☒ Pay fine in full before 2-1-05 ☐ Apply bail to fine

☐ Pay fine in monthly payments of \$ or more, beginning on the day of , 20 and on or before the same day of each month until paid in full. If you cannot make a payment you must appear in person at 8:00 A.M. before the payment is due or a warrant will be issued for your arrest.

JAIL: ☐ Conditional Sentence/Probation terminated as modified herein. ☐ With proof of by Suspend \$ of fine.

☐ Serve days in jail with credit for days served. Starting , 20 At AM/PM. ☐ FORTHWITH

☐ Serve concurrent with/consecutive to time being served ☐ NO WORK FURLOUGH ☐ NO WORK-IN-LIEU ☐ NO ELECTRONIC SURVEILLANCE

☐ Serve weekends until entire time served starting at AM/PM on for a weekend fee of \$ must be paid when reporting to jail. If any weekend fee is not paid, the full sentence is to be served at straight time.

☐ Other Def. to be notified of court's decision by mail.

Credit Time Served:

Local

Conduct

Total

AN INSTALLMENT FEE OF \$35.00 WILL BE CHARGED FOR ALL FINES PAID IN TWO OR MORE INSTALLMENTS.

A ONE TIME PROCESSING FEE OF \$10.00 WILL BE CHARGED FOR ANY FINE NOT PAID THE DAY IT IS IMPOSED.

OTHER: ☐ Pay restitution in the amount of \$ plus adm. fee to Revenue & Reimbursement by
☐ Pay \$ to R&R for Domestic Violence fee pursuant to 1203.097. ☐ Pay \$25.00 plus adm. fee to A Woman's Place
☐ Pay \$10.00 Citation Processing Fee to Room 6 by through R&R by
☐ Pay Jail Booking Fee in the Amount of \$ to ☐ Revenue & Reimbursement/ ☐ Merced City Finance Dept. by
☐ Deferred Entry of Judgment. / Criminal Proceedings Suspended.
☐ Enroll in Level 1/SB38/PC 1000 Prog W/I days. ☐ Refer back to Level 1 enroll W/I days/SB38/PC 1000 complete by
☐ Seek and maintain Mental Health Counseling. ☐ Interpreter Needed.
☐ Enroll in & complete ACCS/Batterers Treatment Program thru Valley Educational Services (language)

DEFENDANT'S STATUS: ☒ Released O/R ☐ Released/Bail ☐ In Custody, Bail Set \$ ☐ Electronic Monitoring ☐ Sentenced

CONDITIONS OF RELEASE ON BAIL O/R CONDITIONAL SENTENCE:

☐ Do not annoy, ☐ harass, ☐ threaten, ☐ strike, ☐ stay away from, ☐ have no contact with
☐ Do not drive a motor vehicle. ☐ Do not drive unless properly licensed and insured ☒ Obey all laws. ☐ Report any change of address to court immediately.
☐ Driving privilege restricted/suspended for days/months/years. ☐ If restricted, defendant may drive for work purposes and program attendance.
☐ Ignition Interlock Device ☐ Ordered ☐ Not Ordered ☐ Do not own or possess a firearm for the next ten years.
☐ Defendant shall not drive a vehicle for the next years unless equipped with a functioning Ignition Interlock Device.
☐ Abstain (totally) from the (excessive) use of intoxicating beverages. ☐ Do not drive with any measurable amount of alcohol in your blood.
☐ Submit person, vehicle, place of residence or area over which he has control to search for and seizure of narcotics, drugs or other contraband at any time day or night, with or without search warrant, with or without probable cause, as directed by any peace officer.
☐ Submit to chemical testing at the request of any peace officer for being under the influence of drugs and/or intoxicating beverages.
☐ You must register pursuant to Section 11590 of the California Health and Safety Code. ☐ Def. provided Form FD 110 ☐ Def. given copy of Protective Order.

NEXT COURT DATE: 1-7-05 TIME 9:00 COURTROOM 5 FOR:
 NEXT COURT DATE: TIME COURTROOM FOR:
 NEXT COURT DATE: TIME COURTROOM FOR:

TIME WAIVED/NOT WAIVED 10 DAY WAIVER/60 DAY WAIVER "You have the right to appeal this action. Your appeal must be filed within thirty (30) days." IT IS SO ORDERED.

\$20.00 FEE IMPOSED ON CONVICTION. GC 68085.5

I certify the foregoing is a true copy of the judgment rendered on the above date by the above named Judge.

JUDGE/COMMISSIONER

Judge Deputy

LELAND HAUGEN, ADMINISTRATOR OF THE ABOVE NAMED COURT. By

TO THE SHERIFF: The foregoing certified copy of judgment in the above certified action is your authority for the execution thereof.

DEFENDANT, BEING RELEASED ON HIS/HER OWN RECOGNIZANCE/BAIL, AGREES THAT: (a) He/She will appear at all times and places as ordered by the Court or magistrate releasing him/her and as ordered by any Court in which, or any magistrate before whom, the charge is subsequently pending. (b) He/She promises not to depart this state without leave of the Court and agrees to waive extradition if he/she fails to appear as required and is apprehended outside the State of California. (c) He/She has been informed of the consequences and penalties applicable to violation of the conditions of release. (d) Any Court or magistrate of competent jurisdiction may revoke the order of release and either return him/her to custody or require that he/she give bail or other assurance of his/her appearance as provided in Part 2, Title 10, Chapter 1 of the Penal Code. If applicable, I understand and accept the foregoing conditions of conditional sentence and acknowledge receipt of a copy of this order. Failure to comply with any of the terms of this order will be a violation of the terms of your conditional sentence.

Witnessed by Executed on Signature Kathy Gallegos Defendant

Address: 1394 Fair Oaks Ct City Merced State CA Zip 95340

P.O. Box: Phone: 209-723-8255

MISDEMEANOR DOCKET

MERCED COUNTY SUPERIOR COURT

CASES NO. MM199810

MC ADRIAN
03/01/04
040033434

STATE OF CALIFORNIA CITY MJ

11173(A)HS

MERCED BRANCH

II 503PC

THE PEOPLE OF THE STATE OF CALIFORNIA VS.

GALLEGOS, KATHY ELIZABETH

DEFENDANT

DOB 07/13/62

CO-DEFENDANTS

I

II

III

APPEAR: 10/28/04 08:30 DEPT 3

Complaint filed 9/21/04 Warrant Issued _____ Bail \$ _____ OR _____ Rel/Bail _____ Cust. _____ Cited _____

CONTINUANCES:

Cont. on	Cont. to	Continued for	Constitutional and Statutory Time	Judge	
CN 10/28/04	11/12/04	9:30 5 PD	<input type="checkbox"/> waived	<input type="checkbox"/> not waived	<i>Thurman</i>
10/11-12-04	1-7-05	9:30 5 PD	<input type="checkbox"/> waived	<input type="checkbox"/> not waived	<i>Shall</i>
			<input type="checkbox"/> waived	<input type="checkbox"/> not waived	
			<input type="checkbox"/> waived	<input type="checkbox"/> not waived	
			<input type="checkbox"/> waived	<input type="checkbox"/> not waived	
			<input type="checkbox"/> waived	<input type="checkbox"/> not waived	
			<input type="checkbox"/> waived	<input type="checkbox"/> not waived	
			<input type="checkbox"/> waived	<input type="checkbox"/> not waived	
			<input type="checkbox"/> waived	<input type="checkbox"/> not waived	

ARRAIGNMENT:

CN 10/28/04

☐ Defendant not present. ☐ Bail ordered forfeited. ☐ No further proceedings. ☐ Warrant ordered. Bail set \$ _____ ☐ Warrant issued

☐ Bondsman and Surety Co. notified of bond forfeiture.

☒ Defendant Present ☐ not present ☒ without attorney ☐ with/by attorney

☒ Arraignment and advisement of Constitutional Rights waived ☐ Interpreter

☒ Defendant arraigned and advised of the following rights: the right to an attorney at all stages of the proceedings and that the Court would appoint an attorney for him if he did not have the financial means to retain his own, the right to release on reasonable bail; the right to a speedy public trial before a jury or judge and the right to have the trial within either 30 or 45 days as provided in Penal Code Section 1382; the right to the processes of the Court to subpoena and produce witnesses in his own behalf and to see, hear and question the witnesses appearing against him, the right not to incriminate himself.

☒ Public Defender appointed. ☐ CPD Appointed. ☐ Defendant advised that upon the conclusion of the case the Court would conduct a hearing to determine the defendant's then ability to pay for all or any part of the cost of appointed counsel, and that defendant may be ordered to pay all or that part of said costs within defendant's ability to pay and that such order could be enforced as a civil judgment.

☐ The Court found that defendant understood his right to an attorney and to the appointment of an attorney if unable to obtain his own and waived the same.

☐ Stipulated to Commissioner / Temporary Judge☒ Defendant released on his own recognizance. ☐ Defendant committed to custody of Sheriff. Bail \$ _____☐ Defendant to remain free on bail.JUDGE: *Thurman* CLERK: *CN* REPORTER: _____ INTERPRETER: _____

PLEA OF NOT GUILTY

CN 10/28/04

☒ Defendant Present ☐ not present ☒ without attorney ☐ with / by attorney

☒ Defendant pleads NOT GUILTY to counts *all c/o*

Prior convictions ☐ admitted ☐ denied. ☒ pretrial conference schedules. See CONTINUANCES.

☐ Defendant demands jury trial. Defendant understood his right to jury trial and personally waived that right. See CONTINUANCES.☐ Stipulated to Commissioner / Temporary Judge

JUDGE: _____ CLERK: _____ REPORTER: _____ INTERPRETER: _____

PLEA OF GUILTY/ CHANGE OF PLEA:

☒ Defendant Present ☐ not present ☐ without attorney ☒ with / by attorney *Singh*

Motion by people to amend complaint by interlineation alleging a violation of Section _____ in the Statutory Language, a lesser included offense, no objection by defendant. Motion granted. Defendant pleads guilty to violation as amended. Remaining counts dismissed in furtherance of justice.

☐ On motion of District Attorney complaint amended to add COUNT _____, violation of _____☒ Defendant requests, and is granted, permission to withdraw previous NOT GUILTY plea and /or pleads☐ guilty ☒ nolo contendere to COUNT *1st* and / or pleads guilty ☐ nolo contendere to a violation of _____ stipulated by the parties to be a lesser included offense within COUNT _____☐ Prior convictions _____☐ In motion of District Attorney, Court orders COUNT _____ dismissed☒ Defendant advised of, understood, and knowingly and voluntarily waived all the following rights: his privilege against self-incrimination, the right to jury trial, and the right to confrontation and cross-examination of the witnesses against him. After questioning the defendant the Court determined that he understood the nature of the charge, the elements of the offense, the pleas available thereto, the possible defenses thereto, the possible range of penalties and other consequences of his plea (including the effect of the admission of any prior convictions). ☒ Written waiver filed.☐ Stipulated to Commissioner / Temporary Judge☐ Pre-sentence report ordered.☐ Formal arraignment for and time of sentencing waived. ☐ _____JUDGE: *Shall* CLERK: *Heare* REPORTER: _____ INTERPRETER: _____

PROBATION GRANTED / NOT GRANTED

- ☒ Defendant present ☐ not present ☐ without attorney ☒ with / by attorney Smagk
☒ Imposition / execution of sentence suspended for 27 Mths
☐ Defendant admitted to probation for the period of suspension on the conditions indicated in probation form which is incorporated herein by reference. Defendant furnished a copy of conditions.
☒ Pay fine of \$ 100 including penalty assessment plus \$ RR Restitution Fund Fine.
☐ Serve one day in jail for each \$60.00 not paid on assessed fine plus penalty assessment.
☐ Credit against fine \$ _____ for time served. \$ _____ Suspended. Balance Due \$ _____
☐ Fine converted to _____ hours / community service ☐ days / jail.
☒ Pay fine in full before 3-1-05
☐ Pay fine in monthly payments of \$ _____ beginning on the _____ day of _____ 20____
☒ Defendant to serve _____ days in jail, with credit for time served pursuant to PC 2900.6 starting _____ 20____ at _____ AM/PM. Serve concurrent / consecutive.
☐ Serve weekends until entire time served started at _____ AM/PM on _____ for two days and the same hours of the same days each week thereafter.
☐ Pay Restitution in the Amount of \$ _____ thru Revenue & Reimbursement by _____
☐ Abstract mailed to DMV.
☐ Enroll in Level II Alcohol Program (SB38) within _____ days and attend as ordered by director.
☐ Enroll in Level I Alcohol Program within _____ days and attend as ordered by director.
☐ Obey all laws ☐ Report any Change of Address ☐ Do not drive unless properly licensed and insured
☐ Abstain (totally) from the (excessive) use of intoxicating beverages ☐ Submit to chemical testing
☐ Do not drive with any measurable amount of alcohol in your blood
☐ Driving privilege restricted/suspended for _____ days/months/years. ☐ If restricted, defendant may drive for work purpose and program attendance.
☐ Ignition Interlock Device ☐ Ordered ☐ Not Ordered _____
☐ Defendant shall not drive a vehicle for the next _____ yrs unless equipped with a functioning Ignition Interlock Device
☐ Pay \$25.00 Screening Fee to Revenue & Reimbursement by _____
☐ Pay \$10.00 Citation Processing Fee to Revenue & Reimbursement by _____
☐ Pay Jail Booking Fee in the amount of \$ _____ thru _____ by _____
☐ Submit person, vehicle, place of residence or area over which he has control to search for and seizure of narcotics, drugs, or other contraband at any time day or night, with or without search warrant, with or without probable cause, as directed by any peace officer.
☐ Do not ☐ annoy, ☐ harass, ☐ threaten, ☐ strike, ☐ stay away from, ☐ have no contact with _____
Complete 100 Community Services

☐ Stipulated to Commissioner / Temporary Judge.

JUDGE: Quale CLERK: Kelane REPORTER: _____ INTERPRETER: _____

TRIAL

- ☐ Defendant present ☐ not present ☐ without attorney ☐ with / by attorney _____
☐ Jury trial commenced ☐ trial before Court without jury commenced.

VERDICT OR JUDGEMENT AFTER TRIAL:

- _____ COUNT _____ of complaint charging violation of ☐ guilty ☐ not guilty ☐ mistrial
 _____ COUNT _____ of complaint charging violation of ☐ guilty ☐ not guilty ☐ mistrial
 _____ COUNT _____ of complaint charging violation of ☐ guilty ☐ not guilty ☐ mistrial

Other results of Court orders _____

☐ Presentence report ordered _____

☐ Stipulated to Commissioner / Temporary Judge.

JUDGE: _____ CLERK: _____ REPORTER: _____ INTERPRETER: _____

MISCELLANEOUS HEARINGS AND ORDERS:

- ☐ 1538.5 motion _____, JUDGE _____
☐ Diversion hearing held. ☐ Diversion granted under supervision of the Probation Officer.
☐ Defendant ordered back to Court on _____ at _____ Diversion denied
☐ Def. in Violation of Probation ☐ Def. admits Violation of Probation ☐ Probation Reinstated as modified herein:
 Def. to serve _____ days in jail with credit for _____ days served
☐ Modification of Terms ☐ Jail ☐ Fine
☐ Convert Balance of Fine to _____ days in Jail _____ Hrs. C/S Starting
☐ Serve _____ days in Jail Starting
☐ Next Fine Payments of \$ _____ due on _____ and on the same day of each month until paid in full
☐ Bail forfeited or O.R. revoked for ☐ Failure to Appear ☐ Other _____
☐ Probation revoked ☐ Bench warrant issued. Bail \$ _____, Judge _____
☐ Warrant recalled/warrant discharged.
☐ Bail forfeiture set aside ☐ Bail reinstated. ☐ Bail exonerated.
☐ Motion of bondsman or surety company to set aside forfeiture and exonerate bail
☐ Denied ☐ Granted ☐ On Condition _____, Judge _____

MERCED COUNTY SUPERIOR COURT
DECLARATION AND WAIVER OF CONSTITUTIONAL RIGHTS

CASE NO. MM 99810

DECLARATIONS

- ☒ 1. By placing my initials in the space to the left, I declare I fully understand each declaration and waiver.
- ☒ 2. I have been informed of the charge(s) against me, and each charge was fully explained to me by my attorney or the Judge and I understand the nature and the possible consequences of the charge(s).
- ☒ 3. I have a constitutional right to be represented by an attorney at all stages of these proceedings and if I cannot afford to hire one, the Court will appoint one for me.
- ☒ 4. I am proceeding without an attorney though the Court has advised me of the dangers of doing so.
- ☒ 5. I understand I have a constitutional right to a speedy trial by jury open to the public. I must be tried within 30 days of my arraignment if I am in custody or within 45 days in the event I am not in custody.
- ☒ 6. I understand I have a constitutional right to confront the witnesses against me and to cross-examine them.
- ☒ 7. I understand that I have the constitutional right to have the Court use its power to subpoena witnesses in my behalf.
- ☒ 8. I understand that I have a constitutional right to be released to reasonable bail pending trial on this matter.
- ☒ 9. I understand that I have a constitutional right not to testify against myself unless I choose to do so.
- ☒ 10. I understand that in addition to any penalties imposed by the Court following my plea of Guilty or Nolo-Contendere I may suffer additional penalties by other agencies.
- ☒ 11. I understand that if I am now on probation or parole my plea of Guilty or Nolo-Contendere may result in revocation of probation or parole.
- ☒ 12. I understand that if I am not a citizen of this Country, a plea of Guilty or Nolo-Contendere may result in deportation, exclusion from admission to the United States, or denial of Naturalization pursuant to the Laws of the United States.
- ☒ 13. I understand that I have a right to a delay of at least six (6) hours but not more than five (5) days for the Court to sentence me after a plea of Guilty or Nolo-Contendere. However, I understand the Court may extend this time if it orders a pre-sentencing probation report.
- ☒ 14. I understand that a plea of Nolo-Contendere has the same effect as a plea of Guilty in this proceeding, but may not be used against me in a civil action out of this incident.
- ☒ 15. I understand that I have the right to have a verbatim record of this proceeding.

WAIVER OF RIGHTS

- ☒ 16. I understand the word WAIVER means that I give up the rights I have.
- ☒ 17. I hereby waive my right to have an attorney represent me.
- ☒ 18. I hereby waive my right to a jury trial and my right to a court trial.
- ☒ 19. I hereby waive my right to confront and cross-examine any witnesses against me.
- ☒ 20. I hereby waive my right to have witnesses subpoenaed in my behalf.
- ☒ 21. I hereby waive my right to remain silent and to not incriminate myself.
- ☒ 22. I hereby waive time for sentencing so the Court may sentence me now or after a probation report, if one is ordered.
- ☒ 23. I hereby waive my right to a verbatim record.

DEFENDANT: I declare that I have read the above declarations and waivers or had them read to me and I understand them; that the Judge has also orally questioned me about them and has answered any questions I had; that I voluntarily placed my initials in each appropriate space and have no reservations as to the declaration and waiver made.

Dated: 11/12, 2004

SIGNATURE

[Signature]
DEFENDANT

- ☐ 24. I plead Guilty/Nolo-Contendere to:
- ☐ a. Driving under the influence of Alcohol/Drug, a violation of Sections 23152(a) of the Vehicle Code.
- ☐ b. Driving with a Blood Alcohol of .08 or above, a violation of Section 23152(b) of the Vehicle Code.
- ☐ c. Driving a commercial vehicle with a blood alcohol of .04 or above, a violation of Section 23152(d) of the Vehicle Code.
- ☐ 25. I admit the prior conviction charged: _____
- ☐ 26. I understand that the Department of Motor Vehicles (DMV) may restrict, suspend, or revoke my license under a procedure which is separate from this criminal action. I understand that the DMV's action, if any, will be in addition to the Court's sentence and that I must obey it. _____
- ☐ 27. I understand that if the Court orders my license restricted, and the DMV orders my license suspended, the restricted license does not allow me to drive until the DMV's suspension has been completed, or set aside. The restriction shall begin upon reinstatement of my privilege to drive. _____
- ☐ 28. I admit that I willfully refused to submit to or complete a breath, blood, or urine test following the peace officer's request and his or her advisement of the consequences for refusing to do so.
- ☐ 29. I plead Guilty/Nolo-Contendere to Reckless Driving, a violation of Section 23103 of the Vehicle Code, under the provisions of Section 23103.5 of the Vehicle Code.
- ☐ 30. I plead Guilty/Nolo-Contendere to Driving with a Suspended or Revoked License, a violation of Section 14601, 14601.1a, 14601.2, or 14601.5 of the Code.
- ☐ 31. I admit the prior conviction(s) charged: _____
- ☒ 32. I plead Guilty Nolo Contendere to the following charges:
- ☒ (a) (Offense) 498 PC Up to 6 months in jail and \$1,000 fine or both.
- ☐ (b) (Offense) _____ Up to 6 months in jail and \$1,000 fine or both.
- ☒ (c) (Offense) _____ Up to 6 months in jail and \$1,000 fine or both.
- ☒ 33. A second or subsequent charge of theft, or a third or subsequent charge of vandalism or graffiti, may be charged as a felony.
- ☐ 34. Other consequences: _____
- ☒ 35. I understand that in addition to the fine imposed, the law requires the Court to add assessments which will significantly increase the amount I must pay. I understand that I may also be ordered (1) to make restitution to the victim, if the offense involved a victim, or to a Restitution Fund, and (2) to pay the expenses incurred by a public agency which responded to any incident caused by my vehicle at the time of my arrest.
- ☒ 36. I must successfully complete an alcohol/drug program in order to be eligible for a driver's license following my license restriction, suspension or revocation. _____
- ☒ 37. I waive my right to a verbatim record.

OFFENSE	MINIMUM AND MAXIMUM SENTENCES	MINIMUM AND MAXIMUM SENTENCES WITHOUT PROBATION
FIRST OFFENSE WITHIN 7 YEARS	TWO OPTIONS, BOTH CARRYING A FINE OF \$390 TO \$1,000, ATTENDANCE AT A 3 MONTH ALCOHOL/DRUG PROGRAM (OR A 6 MONTH PROGRAM IF MY BLOOD-ALCOHOL CONTENT WAS .20 PERCENT OR MORE, OR IF I REFUSED A CHEMICAL TEST AT ARREST), PLUS EITHER: (A) 48 HOURS TO 6 MONTHS IN JAIL, AND A 6-MONTH DRIVER'S LICENSE SUSPENSION; OR (B) A 90-DAY DRIVER'S LICENSE RESTRICTION ALLOWING DRIVING FOR WORK AND ALCOHOL/DRUG PROGRAM ATTENDANCE ONLY. HOWEVER, MY DRIVER'S LICENSE SHALL BE SUSPENDED FOR 6 MONTHS IF THE OFFENSE OCCURRED IN A VEHICLE WHICH REQUIRES A CLASS A OR B DRIVER'S LICENSE.	96 HRS TO 6 MONTHS IN JAIL; \$390 TO \$1000 FINE AND A 6 MONTH DRIVER'S LICENSE SUSPENSION.
SECOND OFFENSE WITHIN 7 YEARS	TWO OPTIONS, BOTH CARRYING A FINE OF \$390 TO \$1,000, PLUS EITHER: (A) 10 DAYS TO 1 YEAR IN JAIL, AND A 2-YEAR DRIVER'S LICENSE SUSPENSION; OR (B) 96 HOURS TO 1 YEAR IN JAIL (THE 96 HOURS WILL BE SERVED IN 2 INCREMENTS OF A CONTINUOUS 48-HOURS EACH); AN 18-MONTH (OR 30-MONTH) ALCOHOL/DRUG PROGRAM, AND A DRIVER'S LICENSE RESTRICTION ALLOWING DRIVING ONLY FOR WORK AND PROGRAM ATTENDANCE FOR THE DURATION OF THE PROGRAM. MY LICENSE SHALL INSTEAD BE SUSPENDED FOR 2 YEARS IF THE OFFENSE OCCURRED IN A VEHICLE WHICH REQUIRES A CLASS A OR B DRIVERS LICENSE.	90 DAYS TO 1 YEAR IN JAIL, \$390 TO \$1000 FINE, AND A 2 YEAR LICENSE SUSPENSION.
THIRD OFFENSE WITHIN 7 YEARS	120 DAYS TO 1 YEAR IN JAIL, \$390 TO \$1,000 FINE, A 3 YEAR DRIVER'S LICENSE REVOCATION, AND 18 MONTH ALCOHOL/DRUG PROGRAM IF YOU HAVE NOT COMPLETED ONE BEFORE.	120 DAYS TO 1 YEAR IN JAIL, \$390 TO \$1,000 FINE, AND A 3 YEAR LICENSE REVOCATION
FOURTH OR SUBSEQUENT OFFENSE WITHIN 7 YEARS	180 DAYS TO 1 YEAR IN JAIL, \$390 TO \$1,000 FINE, A 4 YEAR LICENSE REVOCATION, AND AN 18 MONTH ALCOHOL/DRUG PROGRAM IF YOU HAVE NOT COMPLETED ONE BEFORE.	16 MONTHS, OR 2 OR 3 YEARS IN STATE PRISON, (OR 180 DAYS TO 1 YEAR IN COUNTY JAIL); \$390 TO \$1,000 FINE, AND A 4-YEAR LICENSE REVOCATION

SENTENCES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS (SECTION 23153)		
OFFENSE	MINIMUM AND MAXIMUM SENTENCES WHEN PROBATION IS GRANTED (3 TO 5 YEARS PROBATION TERM)	MINIMUM AND MAXIMUM SENTENCES WITHOUT PROBATION
FIRST OFFENSE WITHIN 7 YEARS	5 DAYS TO 1 YEAR IN COUNTY JAIL, \$390 TO \$1,000 FINE, ATTENDANCE AT A 3 MONTH ALCOHOL/DRUG PROGRAM (OR A 6 MONTH PROGRAM IF MY BLOOD-ALCOHOL CONTENT WAS .20 PERCENT OR MORE, OR IF I REFUSED A CHEMICAL TEST AT ARREST), AND A 1 YEAR DRIVER'S LICENSE SUSPENSION.	16 MONTHS OR 2 OR 3 YEARS IN STATE PRISON (OR 90 DAYS TO 1 YEAR IN COUNTY JAIL), \$390 TO \$1,000 FINE, AND A 1 YEAR DRIVER'S LICENSE SUSPENSION.
SECOND OFFENSE WITHIN 7 YEARS (OTHER CONVICTION OF SECTION 23152, 23153, OR 23103 UNDER 23103.5)	TWO OPTIONS: (A) 120 DAYS TO 1 YEAR IN COUNTY JAIL, \$390 TO \$5,000 FINE, AND A 3 YEAR DRIVER'S LICENSE REVOCATION; OR (B) 30 DAYS TO 1 YEAR IN COUNTY JAIL, \$390 TO \$1,000 FINE, AN 18 MONTH (OR 30 MONTH) ALCOHOL/DRUG PROGRAM, AND A 3 YEAR DRIVER'S LICENSE REVOCATION; OR (B) 30 DAYS TO 1 YEAR IN COUNTY JAIL, \$390 TO \$1,000 FINE, AN 18 MONTH (OR 30 MONTH) ALCOHOL/DRUG PROGRAM, AND A 3 YEAR DRIVER'S LICENSE REVOCATION.	16 MONTHS OR 2 OR 3 YEARS IN STATE PRISON (OR 120 DAYS TO 1 YEAR IN COUNTY JAIL). \$390 TO \$5,000 FINE, AND A 3 YEAR DRIVER'S LICENSE REVOCATION.
THIRD OR SUBSEQUENT OFFENSE WITHIN 7 YEARS (OTHER CONVICTIONS OF SECTION 23152, 23153, OR 23103 UNDER 23103.5)	AT LEAST 1 YEAR IN COUNTY JAIL, \$390 TO \$5,000 FINE AN 18 MONTH (OR 30 MONTH) ALCOHOL/DRUG PROGRAM, RESTITUTION OR REPARATION TO THE VICTIM AS REQUIRED BY LAW, AND A 5 YEAR DRIVER'S LICENSE REVOCATION.	2, 3, OR 4 YEARS IN STATE PRISON, \$1,015 TO \$5,000 FINE, AND A 5 YEAR DRIVER'S LICENSE REVOCATION. AN ADDITIONAL 3 YEARS IN STATE PRISON WILL BE IMPOSED IF I ALREADY HAVE 5 OR MORE DUI CONVICTIONS AND THE OFFENSE CAUSED GREAT BODILY INJURY TO ANOTHER PERSON

PENALTY ENHANCEMENT FOR WILLFUL REFUSAL TO SUBMIT TO OR COMPLETE CHEMICAL TESTS WHEN PROBATION IS GRANTED.	
FIRST OFFENSE WITHIN 7 YEARS	SENTENCE WILL INCLUDE 48 HOURS TO 6 MONTHS IN JAIL, A FINE OF \$390 TO \$1,000, PLUS ATTENDANCE TO AN ALCOHOL PROGRAM. DEFENDANT WILL NOT BE ELIGIBLE FOR THE 90 DAY LICENSE RESTRICTION UNDER OPTION (B).
SECOND OFFENSE WITHIN 7 YEARS	SENTENCE WILL BE ENHANCED BY IMPRISONMENT OF 96 HRS IN THE COUNTY JAIL, WHETHER OR NOT PROBATION IS GRANTED
THIRD OFFENSE WITHIN 7 YEARS	SENTENCE WILL BE ENHANCED BY IMPRISONMENT OF 10 DAYS IN THE COUNTY JAIL, WHETHER OR NOT PROBATION IS GRANTED.
FOURTH OR SUBSEQUENT OFFENSE WITHIN 7 YEARS	SENTENCE WILL BE ENHANCED BY IMPRISONMENT OF 18 DAYS IN THE COUNTY JAIL, WHETHER OR NOT PROBATION IS GRANTED.

SENTENCE FOR RECKLESS DRIVING (SECTION 23103, 23103.5)		
NATURE OF OFFENSE	MINIMUM AND MAXIMUM SENTENCES	OTHER CONSEQUENCES
RECKLESS DRIVING REDUCED FROM DRIVING UNDER THE INFLUENCE	IF PROBATION IS GRANTED: A MAXIMUM OF 90 DAYS IN JAIL, OR \$1,000 FINE, OR BOTH, PLUS ATTENDANCE AT A TREATMENT PROGRAM. IF PROBATION IS NOT GRANTED: 6 DAYS TO 90 DAYS IN JAIL, OR \$145 TO \$1000 FINE, OR BOTH.	IF ALCOHOL OR DRUGS ARE INVOLVED, THIS CONVICTION WILL ACT AS SEPARATE DUI CONVICTION IF I COMMIT A SUBSEQUENT DUI OFFENSE WITHIN 7 YEARS.

SENTENCE FOR DRIVING IN VIOLATION OF A LICENSE SUSPENSION, REVOCATION, OR RESTRICTION		
VEHICLE CODE SECTION	FIRST OFFENSE	SECOND OR SUBSEQUENT OFFENSE: I HAVE PRIOR CONVICTION(S) IN PAST 5 YEARS OF SECTIONS 14601, 14601.1, 14601.1, 14601.1, 14601.2, OR 14601.5.
VEHICLE CODE SEC. 14601	5 DAYS TO 6 MONTHS IN JAIL, AND A FINE OF \$300 TO \$1,000.	10 DAYS TO 1 YEAR IN JAIL, AND A FINE OF \$500 TO \$2,000. 10 DAYS IN JAIL REQUIRED IF PROBATION IS IMPOSED.
VEHICLE CODE SEC. 14601.1	UP TO 6 MONTHS IN JAIL, OR A FINE OF \$300 TO \$1,000, OR BOTH.	5 DAYS TO 1 YEAR IN JAIL, AND A FINE OF \$500 TO \$2,000.
VEHICLE CODE SEC. 14601.2 NOTE: ANY CONVICTION OF THIS OFFENSE REQUIRES INSTALLATION OF IGNITION INTERLOCK DEVICE IN ANY VEHICLE I OWN OR DRIVE.	10 DAYS TO 6 MONTHS IN JAIL AND A FINE OF \$300 TO \$1,000. 10 DAYS IN JAIL REQUIRED IF PROBATION IS IMPOSED. IF I HAVE BEEN DESIGNATED AS A HABITUAL TRAFFIC OFFENDER WITHIN 3 YEARS OF THIS CONVICTION, I WILL, IN ADDITION, BE SENTENCED TO SERVE 180 DAYS IN JAIL AND TO PAY A \$2,000 FINE.	30 DAYS TO 1 YEAR IN JAIL, AND A FINE OF \$500 TO \$2,000. 30 DAYS IN JAIL REQUIRED IF PROBATION IS IMPOSED.
VEHICLE CODE SEC. 14601.5	UP TO 6 MONTHS IN JAIL, OR A FINE OF \$300 TO \$1,000, OR BOTH.	10 DAYS TO 1 YEAR IN JAIL, AND A FINE OF \$500 TO \$2,000 NOTE SECTION 14601.3 ALSO CONSTITUTES A PRIOR CONVICTION FOR THIS OFFENSE.
VEHICLE CODE SECTION	FIRST OFFENSE	SECOND OR SUBSEQUENT OFFENSE: PRIOR CONVICTION(S) IN PAST 7 YEARS OF SECTION 14601.3.
14601.3	30 DAYS IN JAIL AND A FINE OF \$1,000	180 DAYS IN JAIL AND A FINE OF \$2,000

I have read or have had read to me the above chart setting forth the Minimum and Maximum Sentences and understand it.

Dated: 11/12 2007 SIGNATURE [Signature] DEFENDANT

ATTORNEY: I, [Signature] am the attorney of record for the defendant. I have fully discussed with the defendant the charges, possible penalties his/her rights, and have advised him/her thereon. His/Her statements and representations are his/her own. His/Her declaration, waivers and pleas were voluntarily and intelligently made.

Dated: 11/12 2007 SIGNATURE [Signature] ATTORNEY

INTERPRETER I, [Signature] declare that I made a true interpretation of this document in its entirety to the defendant in a language that he/she understands, as well as interpreting the full proceedings of the Court this day in the defendant's matter and am convinced that he/she fully understands his/her rights, his/her waivers, and the possible consequences of his/her plea.

Dated: _____ 20____ SIGNATURE _____ INTERPRETER

COURT'S FINDINGS AND ORDER

The Court, having reviewed this form and having questioned the defendant concerning the defendant's constitutional rights, finds that the defendant has expressly, knowingly, understandingly, and intelligently waived his/her constitutional rights. The Court finds that the defendant's plea is freely and voluntarily made with the understanding of the nature and consequences thereof, and that there is a factual basis for the plea. The Court accepts the defendant's plea and the defendant is convicted on his/her plea. The Court orders this form filed and incorporated in the docket by reference as though fully set forth therein.

Dated: 11/12/2007 SIGNATURE [Signature] JUDGE OF THE MERCED COUNTY SUPERIOR COURT

Exhibit C
Certification of Costs

BILL LOCKYER, Attorney General
of the State of California
BEN JOHNSON, State Bar No. 84406
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2095
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

KATHY E. GALLEGOS

Respondent.

Case No. 2832

**CERTIFICATION OF COSTS:
DECLARATION OF BEN JOHNSON**

[Business and Professions Code section
125.3]

I, BEN JOHNSON, hereby declare and certify as follows:

1. I am a Deputy Attorney General employed by the California Department of Justice (DOJ), Office of the Attorney General (Office). I am assigned to the Licensing Section in the Civil Division of the Office. I have been designated as the representative to certify the costs of prosecution by DOJ and incurred by the Board of Pharmacy in this case. I make this certification in my official capacity and as an officer of the court.

2. I represent the Complainant, Patricia F. Harris, Executive Officer of the Board of Pharmacy, in this action. I was assigned to handle this case on or around January 25, 2005.

3. As the Deputy Attorney General assigned to handle this case, I performed a wide variety of tasks that were necessary for the prosecution of this matter, including, but not limited to (1) conducting an initial case evaluation; (2) obtaining, reading and reviewing the investigative material and requesting further investigation, as needed; (3) drafting pleadings, subpoenas, correspondence, memoranda, and other case-related documents; (4) researching relevant points

of law and fact; (5) locating and interviewing witnesses and potential witnesses; (6) consulting and/or meeting with colleague deputies, supervisory staff, experts, client staff, and investigators; (7) communicating and corresponding with Kathy E. Gallegos; (8) providing and requesting discovery; (9) preparing for and attending trial setting, status, prehearing and settlement conferences, as required, and (10) preparing for hearing.

4. I am personally familiar with the time recording and billing practices of DOJ and the procedure for charging the client agency for the reasonable and necessary work performed on a particular case. Whenever work is performed on a case, it is the duty of the employee to keep track of the time spent and to report that time on DOJ time sheets at or near the time of the tasks performed. Based upon the time reported through January 17, 2006, DOJ has billed or will bill the BP for the following amount of time spent working on the above entitled case.

Employee/ <u>Position</u>	Fiscal <u>Year</u>	No. of <u>Hours</u>	Hourly <u>Rate</u>	Total <u>Charges</u>
Lucy E. Baez Fiske	2004-5	12.50	91	1,137.50
Legal Assistant				
Consuela M. Lira	2004-5	0.25	91	22.75
Lead Senior Analyst				
Stephen S. Handin	2004-5	0.25	139	34.75
Supervising Deputy Attorney General				
Ben E. Johnson	2004-5	6.25	139	868.75
Deputy Attorney General				
Ben E. Johnson	2005-6	13.50	146	1,971.00
Deputy Attorney General				
				TOTAL: \$4,034.75

5. To the best of my knowledge the items of cost set forth in this certification are

1 correct and were necessarily incurred in this case.

2 I certify under penalty of perjury under the laws of the State of California that the
3 foregoing is true and correct.

4 Executed on January 18, 2006, in the City of Los Angeles, California.

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10 declaration of costs.wpt 10/18/01

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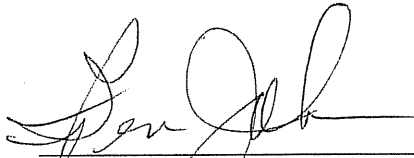
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BEN JOHNSON
Deputy Attorney General

Declarant